



## ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)

Regional Review on the Laws, Policies, and Practices within ASEAN relating to the Identification, Management, and Treatment of Victims of Trafficking, especially Women and Children

# KEY FINDINGS

on Protecting the Rights of Victims of Trafficking

## BASIC RIGHTS OF VICTIMS



PROTECTION FROM FURTHER HARM



IMMEDIATE MATERIAL, MEDICAL & OTHER ASSISTANCE



FREEDOM OF MOVEMENT



PRIVACY



SAFE AND SUPPORTED RETURN



INFORMATION & ACCESS TO REMEDIES

## FUNDAMENTAL PRINCIPLES

- ✓ Non-discriminatory protection and assistance with no negative impact on victim rights
- ✓ "Best interests of child" principle governs all actions and decisions concerning child victims
- ✓ Victims to be properly informed about their rights and how to access them
- ✓ Victims not prosecuted/punished for crimes committed in course of their trafficking
- ✓ Rights of categories of victims (women, children, disabled, etc.) recognized and protected
- ✓ Victims not held in immigration detention or other facilities against their will

### IN LAW

The Trafficking in Persons (TIP) Laws in most (but not all) ASEAN Member States (AMS) mandate basic rights for victims of trafficking. Some national laws provide extensive and detailed rights including a right to compensation and protection from prosecution for status offences (such as illegal stay or work) and restrictions on the detention of victims. Most, but not all, national legal frameworks mandate special and additional rights for child victims.

### IN POLICIES

Most AMS (including those that do not have specific legislative provisions in this area) have adopted policies and procedures recognizing and protecting victims' rights. Some have developed detailed policies in this area. A number of multilateral and bilateral agreements affirm Member State commitment to upholding certain rights for victims including access to immediate support and protection from criminalization and detention.

### IN PRACTICE

There has been substantial progress in recognition of victim rights throughout the ASEAN region but low identification rates mean that many trafficked persons do not get the opportunity to access these rights. Provision of basic support services including shelter, health care and information is uneven throughout the region. In several ASEAN countries adult victims are held in protective custody in shelters, sometimes for extended periods of time. Very few victims in the region have received compensation for the harms committed against them.

## GOOD PRACTICES

Rights of victims (including to privacy, support and protection from further harm) entrenched in law  
Obligation not to prosecute or detain victims for status offences entrenched in law  
Regularisation of victims' legal status to enable them to stay / work in the country of destination  
Additional / special measures for child victims  
Legal recognition of victims' right to compensation and mechanisms to help realize that right

## COMMON CHALLENGES

Improving identification of victims of trafficking  
Resourcing adequate victim protection and support programs  
Addressing the situation of victims who are irregular migrants  
Developing and resourcing mechanisms to deliver compensation to victims  
Addressing the special needs of child victims

Additional Resources: UN Principles and Guidelines on Human Rights and Human Trafficking



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